

**JUDICIAL APPOINTMENTS COMMISSION (JAC) MEETING  
12 JUNE 2014  
MINUTES OF MEETING**

<b>PRESENT</b>	
<b>Commissioners</b>	<b>Staff</b>
Christopher Stephens (Chairman) Emily Jackson Usha Karu Noel Lloyd Katharine Rainsford Andrew Ridgway Alexandra Marks Lucy Scott-Moncrieff Christopher Simmonds Valerie Strachan Debra van Gene	Chief Executive Director of Operations Assistant Director, Change Programme Assistant Director, Complaints and Security Assistant Director, Marketing, Outreach and Communications Assistant Director, Selection Process Review Project Manager, Candidate Attraction Project Occupational Psychologist Senior Manager, Operational Policy Private Secretary to the Chairman Board Secretary
<b>Board Guest:</b> The Rt Hon Sir Alan Beith MP for Item 6 only.	

### **1. Apologies and matters arising**

1.1 Apologies were received from Martin Forde, Julia Macur, Phillip Sycamore and Alan Wilkie.

1.2 Commissioners confirmed that they had no personal interest in any matters to be discussed on the agenda.

1.3 The minutes of the 8 May meeting were agreed and the Board Action Register noted.

### **2. Chairman's Report**

2.1 The Chairman provided an update on his activities since his last report at the May meeting. He had met twice with the Lord Chief Justice. At the second meeting, the Ministry of Justice (MoJ) Permanent Secretary had also attended. He had also met with Mr Justice Singh and the Honourable Mr Justice RM Lodha, Chief Justice of India. In addition, he had addressed a visiting delegation from the judiciary of Nigeria.

2.2 The Chairman invited Commissioners to comment on activities of particular interest with which they were involved. Christopher Simmonds reported on his attendance at a meeting with the Judicial Office, also attended by the Chief Executive.

2.3 Lucy Scott-Moncrieff commented on her attendance at an event hosted by the Society of Labour Lawyers. Valerie Strachan reported that she had attended the CILEx Annual Dinner, also attended by the Chief Executive.

### **3. Chief Executive's Report**

3.1 The Chief Executive provided an oral update making reference to savings anticipated in the next financial year, 2015/16. He informed Commissioners that the 2014/15 selection exercise

programme was increasingly stable, noting that further large exercises are likely to be added to the programme for launch in Quarter 4. Most of the costs would fall into the next financial year (2015/16), and would increase the financial pressure at a time when the JAC (along with other parts of the MoJ family) would be expected to deliver an in-year saving of around ten per cent.

3.2 He next informed the Commission of staff numbers in post and reported also on the launch of a Voluntary Early Departure scheme on 9 June 2014. He reported that the scheme, together with the implementation of the Judicial Appointments Recruitment System (JARS) would have implications for staffing levels towards the end of the year.

3.3 The Chief Executive also reported that the JAC had released the latest set of official six-monthly diversity statistics on 5 June 2014. He also informed the Commission that the next phase of the Government's Triennial Review would start in June 2014.

3.4 Finally, the Chief Executive provided the Commission with a brief summary of progress with regard to each of the individual projects constituting the Change Programme.

#### **4. Annual Report 2013/14**

4.1 The Assistant Director, Marketing, Outreach and Communications, presented a draft copy of the JAC Annual Report for 2013/14 to the Commission for approval.

4.2 The Commission approved the substance of the draft report, noting that some of the figures provided were subject to review by the Audit and Risk Committee and, as such, were yet to be finalised.

4.3 Commissioners were invited to provide any comments on points of detail to the Assistant Director by the end of Monday 16 June 2014.

#### **5. Selection Process for Fee-paid Chairman, Competition Appeal Tribunal**

5.1 The Senior Manager, Operational Policy, presented a paper seeking the Commission's agreement to a proposed selection process to be used to fill a vacancy for the above office. The Commission noted that the proposal had been amended, following its consideration at the previous Board meeting.

5.2 The Commission reviewed the proposal and the revised Vacancy Request. Commissioners identified some further minor areas for clarification. Subject to these the Commission agreed that the exercise should be implemented in accordance with the proposal.

#### **6. Board Guest: The Rt Hon Sir Alan Beith MP, Chair, Justice Select Committee**

6.1 The Chairman welcomed Sir Alan to the meeting and introductions were made.

6.2 Sir Alan reflected on the appearance of the Chairman, Valerie Strachan and David Bean before the Justice Select Committee in March 2014. He commented on the challenges facing the JAC and the judiciary, including the matters of increasing diversity and social mobility. He noted that the JAC had already made significant efficiency savings and remarked that the change programme indicated the JAC's recognition of the further work required. He further noted that the high standard of candidates recommended for appointment appeared to have been maintained.

6.3 There was a brief discussion about the scope for the JAC to become involved in a limited number of additional judicial or quasi-judicial appointments. Sir Alan also touched on possible methods of alerting potential candidates, early in their careers, of the opportunities available in the judiciary.

6.4 On diversity, Sir Alan said that this was likely to remain the main yardstick against which the performance of the JAC would be measured, but that efforts to make progress in this area were largely dependent on the diversity of the pool of candidates, which was mostly outwith the control of the JAC. Public sector lawyers were more diverse, although there were restrictions on their ability to sit in some jurisdictions. On quotas he noted there was some interest within Parliament, but he questioned whether support was particularly widespread. Trends within the legal profession were discussed and it was recognised that these should be monitored to assess the longer term make-up of the eligible pool of candidates.

6.5 Sir Alan considered that the relationship between the Justice Select Committee and the JAC was considered appropriate and constructive. He also commented that, unless a particular issue arose requiring the Committee's attention, it would not need to take evidence from the JAC any more frequently than at present. It was very useful, however, to receive the Annual Report, the six-monthly statistics and information on significant policy initiatives on a regular basis.

## **7. Additional Selection Criteria**

7.1 The Senior Manager, Operational Policy, presented a paper seeking to clarify to the Commission the JAC's current policy on Additional Selection Criteria, which it applies to selection exercises at the request of the Lord Chancellor. The Commission was asked to consider whether any amendments to the existing policy should be made.

7.2 Commissioners discussed the distinction between Additional Selection Criteria and statutory eligibility criteria, the latter of which were susceptible to a binary decision. They also emphasised the need for clear guidance to candidates, with regard to how they might demonstrate 'exceptionality' in cases where they do not meet the criteria. After detailed discussion, the Commission agreed to retain its existing policy.

## **8. References in the Selection Process**

8.1 The Assistant Director, Selection Process Review, presented a paper seeking the Commission's agreement to amend the way in which references in selection exercises for fee-paid legal and non-legal judicial offices are handled.

8.2 The Commission discussed, at length, the three recommendations set out in the paper: first, to reduce the weighting of references in exercises for the relevant offices, so that a positive reference is used to validate rather than increase a candidate's grading, and a negative reference could lead to grading being reduced; secondly, to change the guidance provided on nominated referees in exercises for fee-paid legal posts; and thirdly, to change the reference form for use in exercises for the relevant offices in order to improve its effectiveness and make it more user-friendly.

8.3 The Commission agreed to the recommendations proposed. It further agreed for a small group of Commissioners to work with the Assistant Director to refine and finalise the amended guidance for nominated referees. Commissioners also suggested a number of amendments to a draft version of the standard reference form. The Assistant Director informed the Commission that copies of the revised guidance and reference form would be provided at a future meeting, for information.

8.4 In reaching its decision, the Commission agreed that the revised guidance should emphasise the salience of specific examples demonstrating where candidates have evidenced the qualities and abilities required. The Commission further noted that guidance to statutory consultees would also benefit from such an emphasis.

8.5 A further suggestion in respect of references for fee-paid appointments was made by Alexandra Marks. Commissioners discussed deferring the supply of references and referees' details until after a qualifying test in order that these would only be sought in respect of candidates shortlisted to attend selection day. Following discussion, Commissioners agreed that this approach should be considered.

## **9. Shortlisting Methods**

9.1 The Assistant Director, Selection Process Review, presented a paper seeking the Commission's agreement to pilot three shortlisting tools in future selection exercises to be determined by the Selection Exercise Programme Board.

9.2 The proposed shortlisting tools were: the use of pre-recorded video interviews between initial shortlisting and selection day; asking candidates to provide a written summary of a judgment or

decision to be considered as part of a paper sift; and asking candidates to provide a response to written case materials.

9.3 The Assistant Director informed Commissioners that video interviews had been used successfully as a professional shortlisting tool in other recruitment contexts. Commissioners also noted that in a 2013 selection exercise for salaried offices in the Social Entitlement Chamber, the method of asking candidates to provide a response to written case materials had proved successful. Commissioners emphasised the importance of clarity regarding which specific qualities and skills were being assessed by each tool.

9.3 After some discussion, the Commission agreed for the proposed shortlisting tools to be used. Commissioners agreed that candidates should be required to make a declaration of original authorship when submitting materials for assessment.

## **10. Candidate Attraction Project**

10.1 The Project Manager, Candidate Attraction Project, provided the Commission with an update on progress that the project had made. Commissioners noted that the project seeks to identify the dispersal groups within each part of the legal profession, in order to assist the JAC in developing effective means of reaching a wider range of candidates. Commissioners were content with progress made to date and of the next steps proposed.

## **11. Updated Statutory Consultation Guidance**

11.1 The Commission agreed to address this item at its next meeting on 10 July.

## **12. Annual Complaints Analysis 2013/14**

12.1 The Assistant Director, Complaints and Security, presented a paper to Commissioners setting out an analysis of complaints received by the JAC in 2013/14.

12.2 The Assistant Director informed the Commission that the number of complaints made in the year had been affected significantly by a technical problem which disrupted an online qualifying test used in a selection exercise involving a large number of candidates. Commissioners noted that 41 of the 65 complaints made in the year related to the exercise in question, and that had this problem not occurred, the overall level of complaints would have been lower than the previous year (45 complaints were received in 2012/13).

12.3 The Assistant Director then provided Commissioners with a breakdown of the JAC's responses to complaints, and the rate at which complainants took their complaints to the Judicial Appointment and Conduct Ombudsman (JACO) following the JAC's initial response. The Commission noted that the number of complaints the JAC upheld in the year had risen from the previous year, and that the number of complainants referring their complaints to JACO had fallen.

The Commission was also informed of a recent unsuccessful challenge the JAC had faced when a complainant sought Judicial Review of a character decision made by the Selection and Character Committee.

### **13. Working Group Reports**

13.1 Noel Lloyd, Chair of the Judicial Appointment Recruitment System (JARS) IT Project Steering Group provided the Commission with an update on progress towards the development and implementation of JARS. He indicated that the implementation date may be moved back by one month, from September 2014 to October 2014, as the hosting and accreditation of the new IT system needed to be undertaken sequentially.

13.2 It was confirmed to the Commission that JARS would operate fully in accordance with the provisions of the Data Protection Act 1998 and that the JAC already used a data retention schedule to this end.

### **14. Management Information Pack**

14.1 The Commission considered the monthly Management Information Pack. The pack provided an overview of JAC activity up to the end of May. Commissioners noted that progress towards the 2014/15 Business Plan objectives would not be reported on until the end of the current quarter.

### **15. Additional Item: Salaried Judge, First-tier Tribunal, Health Education and Social Care Chamber, Mental Health**

15.1 The Commission agreed to passport the remaining candidate on a list created under Section 94 to the Constitutional Reform Act 2005, through to selection day in a forthcoming selection exercise for the same office (as above).

### **Date of next meeting**

The Chairman confirmed that the next Board meeting would be held on **Thursday 10 July**.

The Chairman then informed Commissioners of an additional Selection and Character Committee meeting to be held on 20 August 2014 to consider eligibility issues. A quorate group of Commissioners was identified to attend the meeting.

The Chairman also provided advance notice of a Selection Process Review Workshop due to be held on the afternoon of 25 September 2014.